

The Examiner is thanked for the indication that the elected composition is allowable. From the Office Action, it appears that the Examiner has extended the search to include glufosinate or its ammonium salt and metolachlor or glufosinate or its ammonium salt and pendimethalin.

This Amendment cancels all the claims and adds new claims 13 to 25. These new claims find support primarily in the claims which they replace and these changes serve to place the claims in compliance with conventional US practice. Support for the proviso added to claim 13 is found on page 7, line 16, p. 8 line 13, p 11, line 25, p. 14, lines 10 and 16 and page 17, line 7. Thus, it is believed that no new matter is added by these amendments to the claims.

Claims 1 to 10 stand rejected under 35 USC §112, first paragraph, for allegedly “not providing reasonable enablement for combinations of A and B compounds where no data is provided.” Office Action at 1. As the Statute does not require that a patent application contains a working example for all of the embodiments and one skilled in the art would expect that all the combinations claimed would exhibit synergistic activity based upon the data provided in the specification, reconsideration and withdrawal of this rejection are requested.

The first paragraph of 35 USC § 112 requires nothing more than objective enablement. *In re Borkowski*, 164 USPQ 642 (CCPA 1970). Whether this is achieved by the use of illustrative examples or by broad terminology is of no importance. *In re Marzocchi*, 169 USPQ 367 (CCPA 1971). As assertion by the Patent Office that the enabling disclosure is not commensurate in scope with the protection sought must be supported by evidence or reasoning substantiating the doubts so expressed. *In re Dinh-Nguyen*, 181 USPQ 46 (CCPA 1974); *In re Bowen*, 181 USPQ 48 (CCPA 1974); *In re Armbruster*, 185 USPQ 152 (CCPA 1975).

Applicants respectfully urge that the data presented on pages 27 to 24 support Applicants contention that all the compositions claimed in the inventive method and in the composition claims exhibit synergy. It should be noted that the rejection does not set forth any detailed reasons or provides any evidence to rebut Applicants' position. Accordingly, it is urged that the rejection does not establish a *prima facie* case of non-enablement, and reconsideration and withdrawal of this rejection are requested.

Claims 1, 2, 4 to 6, 9 and 10 stand rejected under 35 USC § 112, second paragraph, as allegedly being indefinite, for not providing any steps in the method claim, and under 35 USC § 101 for reciting the phrase "use of" without setting forth any steps. In view of the amendments to the claims, which recite the step of "applying," reconsideration and withdrawal of these rejections is respectfully requested.

Claims 1, 2 and 4 to 10 stand rejected under 35 USC § 103(a) for allegedly being unpatentable over Hudetz *et al.*, US 5,981,432 ("Hudetz"). As Hudetz does not suggest the synergistic activity of the inventive combinations against harmful plants in tolerant cotton crops, as evidenced by the data presented in Table 2 or Table 5 of the specification, it is urged that the claims are patentable over this patent. Accordingly, reconsideration and withdrawal of this rejection is requested.

While Hudetz generically discloses using a combination of metolachlor with other herbicides, including glufosinate or glyphosate, to control unwanted plants in crops such as cotton, the prior patent does not disclose, generically or by specific example, that such combinations exhibit synergy wherein the crop is cotton, which is tolerant to the two herbicides. The specification presents data in Table 2 and Table 5 which supports Applicants' position that

the inventive compositions exhibit synergy. As Hudetz does not teach or suggest this activity, reconsideration and withdrawal of this rejection is requested.

Claims 1, 2, 4 to 6, and 8 stand rejected under 35 USC 103(a) for allegedly being unpatentable over Langeluedecke *et al.*, EP-A- 76 470 (" the '470 application"). As the '470 application does not teach or suggest the selective control of weeds in cotton crops, reconsideration of this rejection is requested.

The '470 application describes the use of glufosinate and 2,4-D or MCPA and diuron or simazine for the treatment of weeds in perennial crops such a citrus trees. The '470 application does not describe the selective control of weeds in cotton crops that are tolerant to the herbicides, let alone the unexpectedly superior herbicidal activity that is observed with the inventive combinations. Accordingly, reconsideration and withdrawal of this rejection are requested.

Favorable action is solicited.

Respectfully submitted,

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